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1940 DUKE STREET  
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EXAMINER
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1 RECORD OF ORAL HEARING  
2 UNITED STATES PATENT AND TRADEMARK OFFICE

3  
4 BEFORE THE BOARD OF PATENT APPEALS  
5 AND INTERFERENCES

6  
7 *Ex parte* YASUSHI KATAYAMA

8  
9 Appeal 2010-003901  
10 Application 10/501,082  
11 Technology Center 2400  
12

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14 Oral Hearing Held: Thursday, September 15, 2011  
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16  
17 Before JAY P. LUCAS, DEBRA K. STEPHENS, and JAMES R. HUGHES,  
18 *Administrative Patent Judges*

19  
20 ON BEHALF OF THE APPELLANT:

21 SAMEER GOKHALE, ESQ.

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24 Alexandria, Virginia 22314  
25  
26

1           *The above-entitled matter came on for hearing on Thursday, September*  
2           *15, 2011, commencing at 9:44 a.m., at the U.S. Patent and Trademark Office,*  
3           *600 Dulany Street, 9th Floor, Hearing Room D, Alexandria, Virginia, before*  
4           *Jon Hundley, notary public.*

5

6           THE USHER: Calendar Number 45, Appeal Number 2010-  
7           3901, Mr. Gokhale.

8           JUDGE LUCAS: Thank you, Ms. Bobo. Mr. Gokhale?

9           MR. GOKHALE: Gokhale is how it's pronounced.

10          JUDGE LUCAS: Gokhale?

11          MR. GOKHALE: Yeah.

12          JUDGE LUCAS: Judge Stephens will be joining us from the  
13          Carolinas.

14          JUDGE STEPHENS: Good morning.

15          JUDGE LUCAS: Judge Hughes, and I are obviously here. Have  
16          you been in front of this board before?

17          MR. GOKHALE: I've been in front of the board; a different  
18          panel.

19          JUDGE LUCAS: Well, of course.

20          MR. GOKHALE: Yes.

21          JUDGE LUCAS: Mr. Gokhale, you'll be allowed 20 minutes  
22          from when you start. Somewhere around 18, 19 minutes, according to that  
23          clock, I'll give you a warning and ask you to please summarize where we  
24          were. We may interrupt you at any time and that counts as part of your 20  
25          minutes.

1 MR. GOKHALE: Okay. Understood.

2 JUDGE LUCAS: Okay.

3 MR. GOKHALE: Good morning, Your Honors. My name is  
4 Sameer Gokhale. I want to talk about the main issues in the appeal today and  
5 get a chance to answer any questions you may have. The main issues were  
6 involved with the independent claims in this case, and I'm going to talk about  
7 Claim 9 as an example for the sake of this hearing.

8 Claim 9 recites a data reception unit, a data processing unit, and  
9 a rule decision processing unit. And, in particular, the data reception unit  
10 receives a data processing request, and the rule decision processing unit is  
11 configured to execute determination processing for determining whether or  
12 not the processing according to the processing request is to be executed, based  
13 on a rule deciding condition descriptor and the rule deciding condition  
14 descriptor is determined based on a probability value. And in the rejection in  
15 this case, Abe is the primary reference.

16 Abe is directed to a system in which an advertiser provides a  
17 commercial to a broadcasting station and also provides information providing  
18 access site information to an access site and information furnishing device.  
19 The broadcasting station will broadcast a commercial to a consumer terminal,  
20 and it also broadcasts programming to the access site information furnishing  
21 device. Now, the consumer terminal, to make a request to the access site  
22 information furnishing device, to get more information about a particular  
23 commercial and a particular -- like the example -- in Abe -- is like they were  
24 treated on a website, so it can buy actual products related to the commercial.

25 The Examiner sites to the access site information furnishing

1 device 305 for the elements of Claim 9 and I think a good overview of that  
2 device is shown on Figure 6 of Abe. In particular, the Examiner sites to the  
3 access site information retrieval unit 355 as being the data reception unit and  
4 the citations he makes in his rejection point to the request made from the  
5 consumer terminal 350C as being the actual data processing request he  
6 interprets in the claims. And it's not shown on Figure 6, but in Figure 10  
7 there's a rule decision unit that he interprets as the rule decision processing  
8 unit.

9                   And that's actually part of the CM detection unit 352 shown in  
10 Figure 6. And what's happening at the device 305 is that while the broadcast  
11 is broadcasting to the device 305 it is determining what portion of the  
12 program is a commercial or not. And so the CM detection unit is actually  
13 detecting what portions of the program are commercial. And there's a lot of  
14 detail in the reference about how it actually achieves that, but in the end it's  
15 going to send Canada commercials or determine commercials to send to a CM  
16 database unit. This is actually separate from the actual request made from the  
17 user with regards to a user with regards to a request 350C shown on Figure 6  
18 where it's requesting the access site information, which really unit to provide  
19 it with access site information.

20                   However, the Examiner, he kind of ties those two together, such  
21 that he is interpreting the CM detection unit as making a determination based  
22 on the data processing request. However, we believe that it's clear that the  
23 determination made by the CM detection unit is actually independent and  
24 separate of the actual request made by the consumer terminal; and, in  
25 particular, he sites to Figure 23, which is another embodiment in Abe which

1 shows a probability database 103, and that's where he sites to to get the  
2 determination based on a probability value as is recited in the claim.  
3 However, that determination based on a probability value in Abe is a  
4 determination of whether or not something is going to be a commercial or not.  
5 And it is not based on determining whether or not processing according to  
6 the request from the consumer terminal is going to be executed.

7 So that's the main difference that we see between our claim and  
8 Abe is that the actual determination based on the probability value in Abe is  
9 completely separate from the data processing request that is received at device  
10 305 that he cites to in Abe. Do you have any questions so far?

11 JUDGE LUCAS: Which is the limitation in Claim 9 that you  
12 feel is most missing from the references?

13 MR. GOKHALE: We believe that the rule decision processing  
14 unit that he interprets does not correspond. I should say that what he  
15 interprets in Abe as a rule decision processing unit does not correspond to the  
16 rule decision processing unit of Claim 9, in particular because he interprets  
17 the data reception unit as the access site information, chiefly 355, which  
18 receives a request from a consumer terminal, which is shown by 350C in  
19 Figure 6.

20 But any determination with regards to that processing request is  
21 not based on a probability value; whereas, what is based on a probability  
22 value in Abe is whether or not a separately received broadcast program  
23 contains a commercial or not. So we believe that dash determination based on  
24 a probability value is separate from the data processing request that he  
25 interprets in the reference. Anymore questions?

1 JUDGE STEPHENS: Yeah. In Figure 10, I guess, which is one  
2 of the ones that the Examiner had cited, is there not a request going into the  
3 rule decision unit there?

4 MR. GOKHALE: Figure 10 shows you what's happening at the  
5 CM detection unit and the way I interpret it from the reference is for seeing  
6 broadcast program ad it's sort of continuously determining in that broadcast  
7 program what's a commercial and what's not a commercial, and outputs  
8 candidates of what can be a commercial out the back end portion of it. And  
9 it's not based on the request that he's actually interpreting as a request in the  
10 claim. I mean he hasn't cited to a request going into the CM detection unit as  
11 being the actual request of the claim.

12 JUDGE STEPHENS: Is this not all in one unit? Is this part of --  
13 Figure 10 -- is that part of 331, Figure 4?

14 MR. GOKHALE: I'm sorry. It was kind of breaking up there for  
15 a second. Could you repeat the question?

16 JUDGE STEPHENS: Sure. If you look at Figure 4, it has CM  
17 detection storage browsing retrieval unit 331. Does that include all of the  
18 elements in Figure 10?

19 MR. GOKHALE: I have to see which element Figure 4 is  
20 actually referring to in the overall system, if you could give me one second  
21 please.

22 [Counsel reviewed the drawing.]

23 MR. GOKHALE: Yeah. I think Figure 4 shows a portion of  
24 what may be happening at the access site information furnishing device;  
25 however, I think Figure 6 shows the overall view, which actually includes the

1 processing request that is interpreted by the Examiner. I think that's one of  
2 the key things is that the actual determination of whether or not to perform the  
3 processing of the processing request is separate from the CM detection unit  
4 detecting what is a commercial in the actual broadcast received from the  
5 broadcasting station, whether it's two different lines of input going into that  
6 device 305.

7 One is from the broadcasting station. The other one comes from  
8 the consumer terminal, and the request he's interpreting is from the consumer  
9 terminal. But the actual decision based on probability value is based on  
10 determining what's a commercial in the broadcast received from the  
11 broadcasting antenna. So I think there's an inconsistency there in his  
12 interpretation of the claim elements with regards to the rule decision  
13 processing unit of Claim 9. Any further questions?

14 JUDGE LUCAS: Your main point is that the probability value is  
15 not used to affect the rule deciding condition descriptor. Is that the point?  
16 Because we have a probability factor --

17 MR. GOKHALE: Yeah.

18 JUDGE LUCAS: -- but you're saying that it's not used in the  
19 manner claimed.

20 MR. GOKHALE: Yeah. The probability value in Abe is part of  
21 the process of determining what is a commercial in the received broadcast  
22 program. The actual data processing request that's interpreted by the  
23 Examiner is a separate line of input from the consumer terminal, and that is a  
24 request basically a website that will allow it to buy goods. And the  
25 determination as to whether or not to process the request received from the



1 consumer terminal is not based on a probability value.

2 JUDGE STEPHENS: It looks like the Examiner is relying on  
3 Jeyachandran as sending a request with instructions to an apparatus.

4 MR. GOKHALE: In Jeyachandran -- Jeyachandran was the  
5 second reference -- it wasn't clear. He kind of refers to it generally as curing a  
6 deficiency in Abe, but overall, Jeyachandran is directed to a printing system  
7 in which a printer server will determine whether or not a printing job is  
8 feasible in one figure, Figure 4.

9 And another figure the Examiner cites to, Figure 12, it's  
10 determining whether or not the user still needs to perform the print job or not.  
11 But none of those determinations made by Jeyachandran are based on a  
12 probability value. So I think that part would still be deficient even if we look  
13 at the different processes of Jeyachandran.

14 JUDGE LUCAS: It's a fine point, but continue on. I don't want  
15 to take your time. You've raised the issue, and that's a good point.

16 MR. GOKHALE: Yeah. I think that's the main point I want to  
17 talk about today is the Examiner's interpretation of the rule decision  
18 processing unit doesn't actually meet all the elements required based on his  
19 interpretation. The other elements in the claim as well, and I hope you take  
20 that into consideration before you make your decision.

21 JUDGE LUCAS: All right. Thank you very much for coming  
22 then.

23 MR. GOKHALE: Thank you for your time. Thank you.

24

25 JUDGE LUCAS: Do any of the other judges have a question for

Appeal 2010-003901  
Application 10/501,082

1 Mr. Gokhale? No. Thank you then.

2 MR. GOKHALE: All right. Thank you.

3 (Whereupon, at 9:58 a.m., the proceedings were concluded.)

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